

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leilani Rhodes	Team: Squad #9	CCRB Case #: 201808804	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 10/20/2018 12:30 PM	Location of Incident: Linden Boulevard and Shephard Avenue	Precinct: 75	18 Mo. SOL 4/20/2020	EO SOL 12/5/2020	
Date/Time CV Reported Sat, 10/20/2018 3:42 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 10/20/2018 3:42 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Roodly Demorcy	03649	961736	075 PCT
2. POF Kristina Lopez	19668	958832	075 PCT
3. POM Andrew Belcher	01072	960224	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jared Dietzel	30858	946469	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Roodly Demorcy	Force: Police Officer Roodly Demorcy pointed his gun at § 87(2)(b)	
B.POM Roodly Demorcy	Force: Police Officer Roodly Demorcy used physical force against § 87(2)(b)	
C.POF Kristina Lopez	Abuse: Police Officer Kristina Lopez stopped an individual.	
D.POM Andrew Belcher	Abuse: Police Officer Andrew Belcher stopped § 87(2)(b)	
E.POM Roodly Demorcy	Abuse: Police Officer Roodly Demorcy frisked § 87(2)(b)	
F.POF Kristina Lopez	Abuse: Police Officer Kristina Lopez frisked an individual.	
G.POM Andrew Belcher	Abuse: Police Officer Andrew Belcher frisked § 87(2)(b)	
H.POM Roodly Demorcy	Abuse: Police Officer Roodly Demorcy searched the vehicle in which § 87(2)(b) was an occupant.	
I.POF Kristina Lopez	Abuse: Police Officer Kristina Lopez searched the vehicle in which § 87(2)(b) was an occupant.	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the call processing system on October 20, 2018.

On October 20, 2018, at approximately 12:30 p.m., § 87(2)(b) was driving a vehicle in which her mother, § 87(2)(b) and her boyfriend “§ 87(2)(b)” were occupants. PO Roodly Demorcy, PO Kristina Lopez, PO Andrew Belcher and PO Jared Dietzel from the 75th Precinct stopped the vehicle at the intersection of Linden Boulevard and Shephard Avenue in Brooklyn after it pinged as a stolen vehicle. PO Demorcy allegedly walked towards the vehicle with his gun pointed (**Allegation A: Force**, § 87(2)(g)) PO Demorcy allegedly “snatched” § 87(2)(b) out of the vehicle by her jacket (**Allegation B: Force**, § 87(2)(g)) § 87(2)(b) and “§ 87(2)(b)” were asked to get out of the vehicle (**Allegations C and D: Abuse of Authority**, § 87(2)(g)) and were frisked (**Allegations E, F, and G: Abuse of Authority**, § 87(2)(g)) PO Demorcy and PO Lopez searched the vehicle before it was transported to the stationhouse (**Allegation H, Allegation I: Abuse of Authority**, § 87(2)(g)) § 87(2)(b) was arrested for § 87(2)(b) (Board Review 01).

Two body worn camera videos have been obtained in relation to this incident (Board Reviews 07 and 11).

Findings and Recommendations

Allegation (A): Force: Police Officer Roodly Demorcy pointed his gun at § 87(2)(b)

It is undisputed that § 87(2)(b) was driving a vehicle that had been reported as stolen by Sixt Rent A Car and that she was arrested and charged with § 87(2)(b).

§ 87(2)(b) stated that upon stopping the vehicle in which she was a passenger, PO Demorcy “jumped” out of his vehicle in a low, hunched over position, using both hands to point his gun towards the driver’s side of the car. He kept his gun pointed until everyone got out of the car. (Board Review 02)

§ 87(2)(b) was uncooperative with the investigation and the investigation was unable to identify her boyfriend “§ 87(2)(b)”. Therefore, statements were not obtained from them.

Although PO Demorcy stated that, as per his training, officers are required to have guns out and pointed at the vehicle when conducting what he classified as a felony car stop; during this stop, his firearm was at his side in his right hand and he never pointed his firearm at anyone (Board Review 03). PO Lopez stated that PO Demorcy had his gun drawn and at his side (Board Review 04). PO Dietzel stated that he did not remember if PO Demorcy had his gun pointed at the stopped vehicle, but he did remember it being out of the holster (Board Review 06). PO Belcher testified that he did not see when PO Demorcy and PO Lopez exited their vehicles, did not see PO Demorcy point his gun at the stolen vehicle, and did not see where PO Demorcy’s gun was at all during the incident. (Board Review 05).

§ 87(2)(g)

§ 87(2)(g)

Allegation (B): Force: Police Officer Roodly Demorcy used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) was asked to exit her vehicle by PO Demorcy.

§ 87(2)(b) alleged that PO Demorcy then “snatched” § 87(2)(b) out of the vehicle by her jacket (Board Review 02).

As discussed above, § 87(2)(b) did not provide a statement regarding this incident and was ultimately uncooperative with the investigation.

PO Demorcy stated that § 87(2)(b) was reluctant to get out of the vehicle. When asked if he assisted her in any way, he stated that he only opened the driver’s side door of the vehicle. He stated that § 87(2)(b) got out of the vehicle on her own (Board Review 03).

PO Lopez’s and PO Belcher’s statements were consistent with PO Demorcy’s (Board Review 04) (Board Review 05).

At 00:30 in PO Demorcy’s Body Worn Camera video, PO Demorcy instructed § 87(2)(b) to step out of the vehicle. While the video does not show how the driver’s side door is opened or where PO Demorcy’s hands touch § 87(2)(b) it is clear that no force was used to remove her from the vehicle. (Board Review 07).

§ 87(2)(g)

§ 87(2)(g)

Allegation (C): Abuse of Authority: Police Officer Kristina Lopez stopped an individual.

Allegation (D): Abuse of Authority: Police Officer Andrew Belcher stopped § 87(2)(b)

Allegation (E): Abuse of Authority: Police Officer Roodly Demorcy frisked § 87(2)(b)

Allegation (F): Abuse of Authority: Police Officer Kristina Lopez frisked an individual.

Allegation (G): Abuse of Authority: Police Officer Andrew Belcher frisked § 87(2)(b)

It is undisputed that all occupants of the vehicle were removed from the vehicle and placed in handcuffs. It is also undisputed that § 87(2)(b) and “§ 87(2)(b)” were frisked.

PO Lopez acknowledged ordering “§ 87(2)(b)” out of the vehicle and frisking him. She acknowledged that all of the occupants were frisked for weapons but could not specify who frisked them. She stated that any time they detain occupants of a vehicle, they have to be frisked for the officers’ safety.

PO Demorcy stated that he ordered all of the occupants out of the vehicle. The occupants were then frisked for weapons for safety, although he did not specify by whom. He confirmed that his concern for the passengers being armed was in connection with the felony car stop and not because of something he observed during the incident. PO Lopez and PO Demorcy both explained that the crime was not returning a rental vehicle.

PO Belcher stated that he did not recall frisking any of the occupants and although he knew all of the occupants were frisked, he did not know who frisked them. He stated that PO Dietzel did not frisk any of the occupants.

PO Dietzel stated that PO Belcher frisked § 87(2)(b) and PO Lopez frisked “§ 87(2)(b)

All the officers agreed that the occupants were frisked for weapons for the officers’ safety.

BWC footage supports that PO Demorcy approached the driver’s side of the vehicle and mainly interacted with § 87(2)(b) that PO Lopez approached the passenger’s side of the vehicle and interacted with “§ 87(2)(b) and that PO Belcher stood by the rear driver’s side of the vehicle and interacted with § 87(2)(b). Each of those officers placed the individuals they interacted with in handcuffs. Glimpses of the BWC videos appear to show them frisking each of the individuals they interacted with after they placed them in handcuffs. § 87(2)(g)

All occupants can be ordered out of the vehicle during a car stop. People v. Livigni, 453 N.Y. S 2d 708 (1982) (Board Review 09). An officer may frisk an individual when he reasonably believes the individual is armed. People v. Debour, 40 N.Y.2d 210 (1976) (Board Review 10).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) Abuse of Authority: Police Officer Roodly Demorcy searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (I) Abuse of Authority: Police Officer Kristina Lopez searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Demorcy and PO Lopez searched the vehicle in which § 87(2)(b) was an occupant. It is also undisputed that § 87(2)(b) was arrested for § 87(2)(b).

§ 87(2)(b) stated that PO Demorcy and PO Lopez searched the front of the car, but she could not see where they looked specifically (Board Review 02).

Beginning at 1:07 into PO Demorcy's BWC footage, PO Demorcy asks § 87(2)(b) multiple times about the whereabouts of the keys to the vehicle and the rental agreement. § 87(2)(b) states that she does not have them and that there is no key because the vehicle is a push to start vehicle. PO Demorcy and PO Lopez search the vehicle and then ask again where the key is. § 87(2)(b) then informs them that the key is in his pocket (Board Review 07).

Vehicles must be seized and invoiced as arrest evidence when arrests are made for unauthorized use of a vehicle. Patrol Guide Procedure 218-19 (Board Review 18). Officers may conduct a search of a readily mobile vehicle where there is probable cause to believe that the vehicle contains evidence of a crime or contraband. People v. Galak, 81 N.Y.2D 463 (1993) (Board Review 20).

§ 87(2)(g)

§ 87(2)(g).

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been party (Board Review 13).
- This is the first complaint to which § 87(2)(b) has been party (Board Review 19).
- PO Demorcy has been a member of service for three years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated.
- PO Lopez has been a member of service for four years and has been a subject in one CCRB complaints and two allegations, none of which were substantiated.
- PO Belcher has been a member of service for three years and has been a subject in five CCRB complaints and eight allegations, none of which were substantiated.
- PO Dietzel has been a member of service for eleven years and has been a subject in six CCRB complaints and nine allegations, two of which were substantiated:
 - 201509552 involved substantiated allegations of a chokehold and physical force against PO Dietzel. The Board recommended Command Discipline B for each allegation and the NYPD imposed no penalty.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
- As of January 30, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 15).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date